

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

DAVID RAY LILLY,

Petitioner,

v.

CIVIL ACTION NO. 5:22-cv-00557

MARTIN J. O'MALLEY
Commissioner of Social Security,

Respondent.

ORDER

Pending are Petitioner David Ray Lilly's Social Security Brief [Doc. 11], filed May 4, 2023, and the Commissioner's Brief in Support of Defendant's Decision, [Doc. 12], filed June 2, 2023. This action was previously referred to the Honorable Dwane L. Tinsley, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Tinsley filed his PF&R on February 26, 2024. Magistrate Judge Tinsley recommended that the Court deny Petitioner's request to reverse the Commissioner's decision, grant the Commissioner's request to affirm his decision, affirm the final decision of the Commissioner, and dismiss this action.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*" (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's

right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-Ramirez*, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on March 11, 2024. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 13**], **GRANTS** the Commissioner’s request to affirm his decision [**Doc. 12**], **DISMISSES** Petitioner’s request to reverse the Commissioner’s decision [**Doc. 11**], **AFFIRMS** the final decision of the Commissioner, and **DISMISSES** the matter.

The Court directs the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: March 13, 2024




Frank W. Volk
United States District Judge